REMARKS

Administrative Overview

After entry of this Response, claims 1–6 will be pending.

In the Office Action mailed on December 19, 2007, claim 4 was objected to because of an informality. Claims 1-6 were rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Claims 1–6 were also rejected under 35 U.S.C. § 103 as unpatentable over U.S. Patent No. 5,611,052 to Dykstra et al. (hereinafter "Dykstra") in view of U.S. Patent No. 6,233,566 to Levine et al. (hereinafter "Levine").

Information Disclosure Statement

The Examiner's request for a more concise explanation of the references submitted in the Information Disclosure Statements of June 20, 2007, and July 22, 2005 is acknowledged. On information and belief, U.S. Patents No. 5,878,403, and 6,587,841, which are priority documents for the present application, are the subject of litigation before the United States District Court for the Eastern District of New York in the case captioned DealerTrack, Inc., v. RouteOne, LLC, et al. On information and belief, Defendant RouteOne submitted a report opining on the invalidity of these two patents through its expert, David Klausner. On information and belief, a copy of that report is included in the Information Disclosure Statement of June 20, 2007, as reference C1636. On information and belief, many of the other references in the Information Disclosure Statement of June 20, 2007, are themselves either identified or discussed in the expert report of David Klausner.

Claim 4, as Amended, Overcomes the Objection

Claim 4 was objected to for referring to "A method as in claim 1…," as claim 3 is a method, not claim 1. Applicants have amended claim 4 to instead read "A method as in claim 3…"

We respectfully submit that amended claim 4 overcomes Examiner's objection.

The Amended Claims Satisfy 35 U.S.C. § 101

Claims 1–6 were rejected under 35 U.S.C. § 101 because "the claimed invention is directed to non-statutory subject matter." In particular, claims 1–6 were said not to fall into one

of the statutory categories, and it was suggested that an amendment to recite an executable program tangibly embodied on a computer readable medium may address this problem.

As amended, claims 1 and 2 now recite a "computer readable medium comprising computer instructions to receive and route credit application information" and various component elements thereof. These amended claims clearly encompass statutory subject matter, as they recite functional descriptive matter recorded on a computer readable medium.

Claims 3–6 concern methods and apparatus respectively. As they are already directed to statutory subject matter, they have not been amended. It is respectfully submitted that the rejection of these claims under 35 U.S.C. § 101 was made in error.

For these reasons, we respectfully submit that amended claims 1–6 satisfy the strictures of 35 U.S.C. § 101.

The Claims, as Amended, are Patentable over Dykstra and Levine

Claims 1-6 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Dykstra in view of Levine.

For the Office to demonstrate a *prima facie* case of obviousness under 35 U.S.C. § 103, the supporting prior art references when combined must teach or suggest all of the limitations of the claim at issue. See MPEP § 2143. As discussed below, neither Dykstra or Levine, taken individually or in combination, teach or suggest all of the elements of the claims at issue.

As amended in this Response, all three of independent claims 1, 3, and 5 require automatically and selectively forwarding said received credit application to a plurality of funding sources. Independent claim 1 provides this element through executable instructions, and independent claim 5 provides this element through a configured processor.

Dykstra neither teaches nor suggests automatically and selectively forwarding said received credit application to a plurality of funding sources. In fact, Dykstra teaches away from the selective forwarding of an application to a plurality of funding sources, and instead teaches communications with a single funding source. Under Dykstra, a merchant "chooses a particular lender," i.e., a single lender. Dykstra at col. 4, ln. 18–20. Dykstra therefore not only fails to satisfy all of the limitations of the present claims, it also teaches away from one of the requirements of the independent claims.

As noted in the previous paragraph, the portions of Dykstra cited for support in the rejection actually support Applicant's position that Dykstra teaches communications with a single funding source, and not a plurality of funding sources. Dykstra clearly states that "Once communications is established, the merchant chooses a particular lender at step 104." Col. 4, ln. 18-20 (emphasis added).

Levine, moreover, does not supply what Dykstra lacks. Generally, Levine describes an online centralized financial products exchange system. Levine at Abstract. Levine does not, however, describe the automatic and selective forwarding of a received credit application to a plurality of funding sources.

For these reasons, we respectfully submit that independent claims 1, 3 and 5, and the remaining claims, which depend therefrom, are patentable over Dykstra and Levine, either taken individually or in combination, and hereby request the withdrawal of these rejections.

CONCLUSION

In light of the foregoing, we respectfully submit that all of the pending claims are in condition for allowance. Accordingly, we respectfully request reconsideration, withdrawal of all grounds of rejection and objections, and allowance of all of the pending claims in due course.

If the Examiner believes that a telephone conversation with the Applicant's attorney would be helpful in expediting the allowance of this application, the Examiner is invited to call the undersigned at the number identified below.

Respectfully submitted,

Date: May 7, 2008

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